

In re SAM KIN LEUNG, Debtor

No. 03-23419-BKC-RBR

Debtor filed Motion for Rehearing and United States Trustee filed Motion to Dismiss this case Under 11 U.S.C. § 707(b) or in the Alternative Under 11 U.S.C. § 707(a) and Motion to Extend Deadline to File a Complaint Objecting to the Debtor's Discharge Pursuant to 11 U.S.C. § 727. The Court held that: (1) Debtor's motion for Rehearing is GRANTED; (2) the United States Trustee's Motion for Dismissal is VACATED; and (3) the United States Trustee's Motion for Dismissal Under 11 U.S.C. § 707(b) is GRANTED because the Court found (a) the Debtor to be an individual with primarily consumer debts, and that (b) granting this Debtor relief would constitute a substantial abuse of the provisions of the Chapter 7. The Court found this dismissal proper because the facts of this case clearly illustrate that the Debtor had the ability to hypothetically fund a Chapter 13 plan with monthly disposable income of at least \$765.33. Granting relief to the Debtor would have been a substantial abuse to the bankruptcy process.